

FILED IN CLERK'S OFFICE
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SEP 3 - 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LUTHER D. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

DELORISE J. JONES,

Plaintiff,

v.

STAFFMARK EAST, LLC
and FACET TECHNOLOGIES, LLC

Defendants.

CIVIL ACTION NO.

1 04 CV 25 97

JURY TRIAL DEMANDED

GET

PLAINTIFF'S ORIGINAL COMPLAINT

A. Parties

1. Plaintiff, Delorise J. Jones, is an individual that is a citizen of the State of Georgia.

2. Defendant, Staffmark East, LLC, is a corporation that is incorporated under the laws of the State of Delaware. Defendant has its principal place of business in the State of Arkansas. Defendant may be served with process by serving its registered agent, C. T. Corporation System, at 1201 Peachtree Street, NE, Atlanta, Georgia 30361. Defendant is a staffing and management agency and has, on information and belief, in excess of 15 employees.

3. Defendant, Facet Technologies, LLC, is a corporation that is incorporated under the laws of the State of Georgia. Defendant has its principal place of business in the State of Georgia. Defendant may be served with process by serving its registered

FORMS RECEIVED

Consent To US Mag ☒

Pretrial Instructions ☒

Title VII NTC ☒

[Signature]

agent, Roberta McCaw, 1850 Parkway PL, Marietta, Georgia 30067.

Defendant is a manufacturer and has, on information and belief, in excess of 15 employees.

B. Jurisdiction

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C.A. § 1331. Delorise J. Jones's cause of action arises under 42 U.S.C.A. §§12101 et seq., the Americans With Disabilities Act (the "ADA").

5. Venue is proper pursuant to 28 U.S.C.A. § 1391(a). This is the judicial district where a substantial part of the events or omissions giving rise to the claim occurred.

C. Exhaustion of Administrative Procedures

6. Plaintiff timely filed with the Equal Employment Opportunity Commission ("EEOC") a charge of discrimination against defendants. Plaintiff received notices of the right to sue from the EEOC within 90 days of the filing of this complaint. A copy of the notices of the right to sue is attached as Exhibit A.

D. Americans with Disabilities Act

7. Plaintiff is disabled, as defined by the Americans with Disabilities Act (ADA). Plaintiff has right Below Knee Amputation and Obesity. As the result, she has unbalanced gait leading to chronic back pain. Plaintiff cannot perform standing or walking continuously on the job. Plaintiff should be offered a seating

position at work. Plaintiff is otherwise qualified to perform the essential functions of line work of Perlet and Line work of Ultrasoftware and Tabletop and Line work of Microlet and Line Leader, and other line work, all jobs Plaintiff performed while standing and/or sitting down or a combination of both.

8. Plaintiff is an employee within the meaning of the ADA.

9. Defendants violated ADA by intentionally discriminating against Plaintiff because of her disability. Defendant's discriminatory acts include the Defendant Staffmark told her to report to work shift at Defendant Facet Technologies on or about October 27, 2003 at around 7:30 a.m. and Plaintiff reported to work and was sent to the Microlet Line. After about ten minutes on the Microlet Line, Plaintiff went to her supervisor, Betty Quarles and told her she could not stand for eight hours because of her amputation. Quarles summoned the Plant Manager Mike Stock and told him something to the effect of "she has a wooden leg," and at that time Plaintiff told Stock that she had worked for Facet Technologies for about a year before and was allowed to sit, and Plaintiff told Stock that she could not stand for eight hours. Stock informed Plaintiff that she would have to bring him a doctor's report on her limitation and ability to lift and he said, "we will work with you." Plaintiff returned to her Line and was able to sit and work a full day.

10. On Tuesday, October 28, 2003, Plaintiff went to her doctor and obtained the doctor's report, attached here as Exhibit B.

11. On Wednesday, October 29, 2003, Plaintiff returned to work and gave her doctor's report to management and Plaintiff was told to go on to the Line and begin working. Instead of assigning Plaintiff to a tabletop that Plaintiff had performed before where she could sit, the Line Leader went and got Staffmark and Facet Technologies management and they told Plaintiff that she had to sign out because they didn't have anywhere to put her because the job required standing. Plaintiff was terminated.

12. Defendants discriminated against Plaintiff by failing to accommodate Plaintiff by assigning her to a Tabletop position where she could sit, as had been done in the past. Plaintiff requires the following reasonable accommodation to perform the job: a position that can be performed while sitting. Although Plaintiff requested this accommodation, Defendants failed to make it.

E. Damages

As a direct and proximate result of Defendants' conduct, Plaintiff suffered the following injuries and damages.

- a. Plaintiff was discharged from employment with the Defendants. Although Plaintiff has diligently sought other employment, she been unable to find a job at comparable pay. In addition, Plaintiff has incurred

expenses in seeking other employment, and loss of benefits.

- b. Plaintiff suffered mental anguish and emotional distress in the form of headaches, upset stomach, sleeplessness, and worrying about her future.

F. Attorney Fees

13. Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 12205.

G. Prayer

For these reasons, Plaintiff asks for judgment against defendants for the following:

- a. Grant a permanent injunction enjoining Defendant, their officers, successors, assigns, and all persons in active concert or participation with them, from engaging in disability, and any other employment practice, which discriminates on the basis of a disability.

- b. Order Defendants Staffmark East, LLC and Facet Technologies, LLC to institute and carry out policies, practices and programs which provide equal employment opportunities for employees with disabilities under ADA and eradicate present unlawful employment practices.

- c. Order Defendants to make whole Plaintiff by providing appropriate back pay and front pay for actual damages with pre-

judgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of their unlawful employment practices, including and not limited to Plaintiff's pecuniary losses.

d. Order Defendants to make whole Plaintiff by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 1 through 12 above.

e. Order Defendants to make whole Plaintiff by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices complained of in paragraphs 1 through 12 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life and humiliation, in amounts to be determined at trial.

f. Order Defendants to pay Plaintiff punitive damages for their malicious and/or reckless conduct described in paragraphs 1 through 12 above, in amounts to be determined at trial.

g. Order Defendants to pay damages to Plaintiff for any and all injuries to her career, in amounts to be determined at trial.

h. Award Plaintiff the costs of this action including reasonable attorneys fees and any such further relief, as the Court may deem just, proper and equitable.

i. Grant such further relief as the Court deems necessary

and proper in the public interest.

H. Reservation Of Rights

Pursuant to the rules of pleading and practice, Plaintiff reserves the right to assert additional violations of federal and state law.

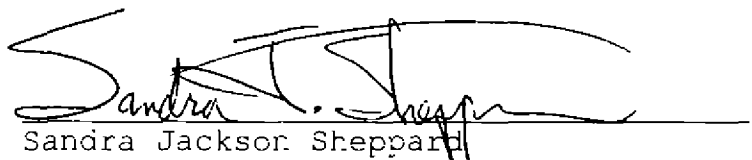
I. Jury Trial

Plaintiff demands trial by jury on all issues so triable.

Dated: September 3, 2004.

Respectfully Submitted,

SHEPPARD & ASSOCIATES

A handwritten signature in black ink, appearing to read "Sandra Jackson Sheppard", is written over a horizontal line.

Sandra Jackson Sheppard
Georgia Bar No. 641967
1401 Peachtree St., Suite 500
Atlanta, GA 30309
(404) 870-8414
(404) 870-8415 Fax
Attorney for Plaintiff

EEOC Form 161 B (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To Deloris Jones
3156 Mount Zion Rd
Apt 302
Stockbridge, Georgia 30281

From Atlanta District Office
100 Alabama Street, S.W., Ste 4R30
Atlanta, Georgia 30303

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No	EEOC Representative	Telephone No
110-2004-00594	Claudia M. Kanu, Investigator	404-562-6877

(See also the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act (ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

- [X] More than 180 days have passed since the filing of this charge
- [] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of the charge
- [X] The EEOC is terminating its processing of this charge
- [] The EEOC will continue to process this charge

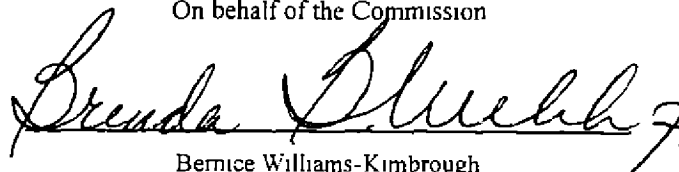
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- [] The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- [] The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Bernice Williams-Kimbrough

JUN 07 2004

(Date Mailed)

Enclosure(s)

cc Marty LeMasurier, Esquire - Vice President of Employment Services
MATRIA HEALTHCARE, INC

EXHIBIT A

EEOC Form 161 B (10/96)

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Apt 302
Stockbridge, Georgia 30281

From Atlanta District Office
100 Alabama Street, S W , Ste 4R30
Atlanta, Georgia 30303

[] On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge No	EEOC Representative	Telephone No
110-2004-00507	Claudia M Kanu, Investigator	404-562-6877

(See also the additional information attached to this form.)

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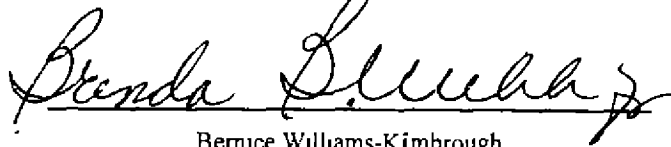
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On behalf of the Commission



Bernice Williams-Kimbrough

JUN 07 2004

(Date Mailed)

Enclosure(s)

cc Abraham Bogoslavsky, General Counsel
STAFF MARK STAFFING

EXHIBIT A

VINA HEALTH CARE CLINIC CORPORATION

OANH XUAN, DAM M D

4487 JONESBORO ROAD - FOREST PARK - GA, 30297

P O Box 16297
Atlanta, GA 30321

Tel 404-366-8822
Fax 404-366-8824

October 28, 2003

To Whom It May Concern

This is to certify that Ms Deloise Jones, d.o.b 12-11-1961, had right BK (below-knee) amputation and obesity As the result, she has unbalanced gait leading to chronic back pain. She cannot perform standing or walking continuously on the job She should be offered a seating position at work.

Thank you for your attention to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'OANH XUAN DAM', with a stylized flourish at the end.

OANH XUAN DAM, M D.

EXHIBIT B